

WEDNESDAY, JANUARY 12, 2011

SECOND ORGANIZATIONAL DAY

The House met at 9:00 a.m. and was called to order by Madam Speaker Harwell

The proceedings were opened with prayer by Representative Dean.

Representative Dean led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results

Present..... 93

Representatives present were Alexander, Bass, Brooks H, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Elam, Eldridge, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones S, Jones U, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Odom, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Todd, Towns, Turner J, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 93

EXCUSED

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under **Rule No. 20**:

Representative M. Turner

MESSAGE FROM THE SENATE

January 12, 2011

MADAM SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) 12 and 15; adopted, for the House's action.

RUSSELL A. HUMPHREY, Chief Clerk

RESOLUTIONS

Pursuant to **Rule No. 17**, the following resolution(s) was/were introduced and placed on the Consent Calendar for January 13, 2011

House Resolution No. 1 -- Memorials, Recognition - MINCO, Inc., 2010 Jim Alford Memorial Award. by *Hawk and Faison.

House Joint Resolution No. 6 -- Memorials, Retirement - Police Chief Jackie Moore, City of Franklin. by *Casada, Sargent and P. Johnson.

House Joint Resolution No. 7 -- Memorials, Sports - Station Hill Pee Wee Coyotes, 2010 Rocky Top Youth Football Classic 6U Champions. by *Casada, Sargent and P. Johnson.

SENATE JOINT RESOLUTIONS (Congratulatory and Memorializing)

Pursuant to **Rule No. 17**, the resolution(s) listed was/were noted as being placed on the Consent Calendar for January 13, 2011:

Senate Joint Resolution No. 12 -- Memorials, Death - Major General Frederick Harwood Forster. by *Overbey, Barnes, Beavers, Bell, Berke, Burks, Campfield, Crow, Faulk, L. Finney, Ford, Gresham, Haile, Harper, Haynes, Henry, Herron, Johnson, Kelsey, Ketron, Kyle, Marrero, McNally, Norris, Southerland, Stewart, Summerville, Tate and Tracy.

INTRODUCTION OF BILLS

On motion, the following bills were introduced and passed first consideration:

***House Bill No. 11** -- Railroads - As introduced, prohibits the blocking of a railroad crossing by a stopped train for more than 15 minutes. - Amends TCA Title 65, Chapter 11, Part 1. by *Hill.

***House Bill No. 12** -- Lottery, Corporation - As introduced, allows Tennessee lottery tickets to be purchased with debit cards in addition to cash. - Amends TCA Title 4, Chapter 51, Part 1. by *Brooks H.

***House Bill No. 13** -- Lottery, Scholarships and Programs - As introduced, changes high school academic requirements for initial receipt of the Tennessee HOPE scholarship. - Amends TCA Title 4, Chapter 31; Title 4, Chapter 51; Title 8, Chapter 4; Title 9, Chapter 4 and Title 49. by *Brooks H.

***House Bill No. 14** -- Lottery, Scholarships and Programs - As introduced, changes high school academic eligibility requirements for initial receipt of the HOPE scholarship. - Amends TCA Title 49, Chapter 4, Part 9. by *Brooks H.

***House Bill No. 15** -- Lottery, Scholarships and Programs - As introduced, changes the terminating events for receipt of the Tennessee HOPE scholarship beginning with the 2012-2013 academic year. - Amends TCA Title 49, Chapter 4, Part 9. by *Brooks H.

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***House Bill No. 16** -- Intellectual & Developmental Disabilities - As introduced, provides for additional notice to legislative committees, lengthens certain reporting deadlines and authorizes additional assistance to the commissioner of intellectual and developmental disabilities concerning determining the fiscal impact of certain changes impacting certain licensees of the department of mental health. - Amends TCA Title 33; Title 63 and Title 68. by *Brooks H.

***House Bill No. 17** -- Pensions and Retirement Benefits - As introduced, under certain circumstances, allows members of the Tennessee consolidated retirement system to change from the optional form to the regular form of retirement in favor of a different beneficiary in the event of divorce. - Amends TCA Section 8-36-606. by *Moore.

***House Bill No. 18** -- Traffic Safety - As introduced, eliminates a minimum and maximum range of fines for obscene displays on motor vehicles and specifies that the fine is a flat \$50.00. - Amends TCA Section 55-8-187. by *Moore.

***House Bill No. 19** -- Consumer Protection - As introduced, requires homeowner's associations to provide and maintain insurance and report information quarterly or as requested in writing. - Amends TCA Title 47, Chapter 18. by *Moore.

***House Bill No. 20** -- Animal Cruelty and Abuse - As introduced, requires owners, harborers, and keepers of dogs to restrain or confine dogs; establishes certain penalties and defenses for violations. - Amends TCA Section 44-8-408. by *Hardaway.

***House Bill No. 21** -- Child Custody and Support - As introduced, establishes the office of noncustodial parent advocacy. - Amends TCA Title 36 and Title 37. by *Hardaway.

***House Bill No. 22** -- Landlord and Tenant - As introduced, requires 24-hour notice of approximate time of removal pursuant to writ of possession and holds plaintiff liable for damages to defendant's removed personal property if notice requirements are not followed. - Amends TCA Title 29, Chapter 15; Title 29, Chapter 18, Part 1 and Title 66, Chapter 28. by *Hardaway.

***House Bill No. 23** -- Real Property - As introduced, requires a residential property disclosure form to include information on the average utility cost for the property over the previous calendar year. - Amends TCA Title 66, Chapter 5. by *Hardaway.

***House Bill No. 24** -- Child Custody and Support - As introduced, requires a parent desiring to relocate more than 100 miles from the other parent or outside the state to send notice of the move to the other parent no later than 90 days, rather than 60 days, before the move. - Amends TCA Title 36, Chapter 6, Part 1. by *Hardaway.

***House Bill No. 25** -- Education, Curriculum - As introduced, requires public school curriculum to include content on energy conservation, including instructing students on how to perform an energy audit. - Amends TCA Title 49, Chapter 6, Part 10. by *Hardaway.

***House Bill No. 26** -- Firearms and Ammunition - As introduced, creates various gun show offenses, including prohibiting any person who is not a licensed firearms dealer from transferring a firearm to another person if any part of the transfer takes place at a gun show or within 1,000 feet of a gun show. - Amends TCA Title 39, Chapter 17. by *Hardaway.

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***House Bill No. 27** -- Comptroller, State - As introduced, requires comptroller to study financing programs available to hospitals that have received both essential access payments and disproportionate share payments for infrastructure and capitol improvement needs. - Amends TCA Title 9 and Title 68. by *Hardaway.

***House Bill No. 28** -- Law Enforcement - As introduced, requires that no disciplinary action be taken against a law enforcement officer for a pursuit for an actual or suspected violator of a law or ordinance who flees from pursuit unless such pursuit violated pursuit policies established by the law enforcement agency that employed such law enforcement officer at the time of the pursuit. - Amends TCA Title 29; Title 40 and Title 55. by *Hardaway.

***House Bill No. 29** -- Arson - As introduced, increases the penalty for the offense of arson from a Class C to a Class B felony and sets a minimum fine for arson of a place of worship at \$25,000 and aggravated arson at \$50,000. - Amends TCA Title 39, Chapter 14. by *Hardaway.

HOUSE BILLS ON SECOND CONSIDERATION

On motion, bills listed below passed second consideration, and were held on the Clerk's desk pending approval of the local delegation or held for appointment of the appropriate standing committees:

***House Bill No. 1** -- Taxes, Sales -- Passed second consideration, and held on desk pending the appointment of standing committees.

***House Bill No. 2** -- Taxes, Sales -- Passed second consideration, and held on desk pending the appointment of standing committees.

***House Bill No. 3** -- Taxes, Sales -- Passed second consideration, and held on desk pending the appointment of standing committees.

***House Bill No. 4** -- Autopsies -- Passed second consideration, and held on desk pending the appointment of standing committees.

***House Bill No. 5** -- Drugs, Over the Counter -- Passed second consideration, and held on desk pending the appointment of standing committees.

***House Bill No. 6** -- Taxes, Sales -- Passed second consideration, and held on desk pending the appointment of standing committees.

House Bill No. 7 -- Election Laws -- Passed second consideration, and held on desk pending the appointment of standing committees.

House Bill No. 8 -- Statutes and Codification -- Passed second consideration, and held on desk pending the appointment of standing committees.

***House Bill No. 9** -- Education, Curriculum -- Passed second consideration, and held on desk pending the appointment of standing committees.

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***House Bill No. 10** -- Highway Signs -- Passed second consideration, and held on desk pending the appointment of standing committees.

PRESENT IN CHAMBER

Representative(s) Tindell was/were recorded as being present in the Chamber.

CONSENT CALENDAR

House Joint Resolution No. 1 -- Memorials, Recognition - Jane Branstetter Stranch. by *Moore.

House Joint Resolution No. 2 -- Memorials, Recognition - C. Dewey Branstetter, Jr. by *Moore.

House Joint Resolution No. 3 -- Memorials, Public Service - 100th Anniversary of UT Extension and Tennessee 4-H. by *Moore.

House Joint Resolution No. 4 -- Memorials, Personal Achievement - James Milam, Jr., Eagle Scout. by *Evans.

House Joint Resolution No. 5 -- Memorials, Recognition - Mount Pleasant United Methodist Church, 160th anniversary. by *Evans.

Rep. Moore moved that all members voting aye on House Joint Resolution No(s). 1, 2 and 3 be added as co-prime sponsors with the Davidson County delegation listed first, which motion prevailed.

Pursuant to **Rule No. 50**, Rep. Dunn moved that all House Bills having companion Senate Bills and are on the Clerk's desk be conformed and substituted for the appropriate House Bill, all Senate and House Bills on the Consent Calendar be passed on third and final consideration, all House Resolutions and House Joint Resolutions be adopted, and all Senate Joint Resolutions on the Consent Calendar be concurred in, which motion prevailed by the following vote:

Ayes	93
Noes.....	0
Present and not voting.....	1

Representatives voting aye were: Alexander, Bass, Brooks H, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Elam, Eldridge, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones S, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Odom, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 93

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Representatives present and not voting were: Hardaway -- 1

A motion to reconsider was tabled.

REQUEST TO CHANGE VOTE

Pursuant to **Rule No. 31**, the following member(s) desire to change their original stand from present and not voting to aye on the Consent Calendar and have this statement entered in the Journal: Rep(s). Hardaway.

ANNOUNCEMENTS

The Clerk announced the report of the Joint Committee to review the audits and operations of the Comptroller of the Treasury and Department of the Treasury has been filed with the Clerk's Office, and the same is available for review by the membership.

The Clerk announced the report of the Joint Committee to canvass the returns of the 2010 general election for the governor has been filed with the Clerk's Office, and the same is available for review by the membership.

**ENGROSSED BILLS
January 12, 2011**

MADAM SPEAKER: The following bills have been examined, engrossed and are ready for transmission to the Senate: House Joint Resolution(s) 1, 2 and 3.

BETTY KAY FRANCIS, Chief Engrossing Clerk

**ENGROSSED BILLS
January 12, 2011**

MADAM SPEAKER: The following bills have been examined, engrossed and are ready for transmission to the Senate: House Joint Resolution(s) 4 and 5.

BETTY KAY FRANCIS, Chief Engrossing Clerk

SPONSORS ADDED

Under **Rule No. 43**, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Joint Resolution No. 1 Rep(s). Naifeh and Sontany as prime sponsor(s).

House Joint Resolution No. 2 Rep(s). Naifeh as prime sponsor(s).

House Joint Resolution No. 3 Rep(s). Naifeh and Shepard as prime sponsor(s).

ROLL CALL

The roll call was taken with the following results

Present..... 95

Representatives present were Armstrong, Bass, Brooks H, Brooks K, Brown, Butt, Campbell, Camper, Carr, Casada, Cobb, Coley, Cooper, Curtiss, Dean, DeBerry J, DeBerry L, Dennis, Dunn, Elam, Eldridge, Faison, Favors, Fitzhugh, Floyd, Ford, Forgety, Gilmore, Gotto, Halford, Hall, Hardaway, Harmon, Harrison, Hawk, Haynes, Hensley, Hill, Holt, Hurley, Johnson C, Johnson P, Jones S, Keisling, Kernell, Lollar, Lundberg, Maggart, Marsh, Matheny, Matlock, McCormick, McDaniel, McDonald, McManus, Miller D, Miller L, Montgomery, Moore, Naifeh, Niceley, Odom, Pitts, Pody, Powers, Pruitt, Ragan, Ramsey, Rich, Richardson, Roach, Sanderson, Sargent, Sexton, Shaw, Shepard, Shipley, Sontany, Sparks, Stewart, Swann, Tidwell, Tindell, Todd, Towns, Turner J, Watson, Weaver, White, Williams K, Williams R, Windle, Wirgau, Womick, Madam Speaker Harwell -- 95

RECESS

On motion of Rep. McCormick, pursuant to Senate Joint Resolution No. 9, the House stood in a brief recess to prepare for the Joint Convention for the purposes of electing Constitutional Officers. At the conclusion of which, the House stood in recess until 9:00 a.m., Thursday, January 13, 2011.

IN JOINT CONVENTION

ELECTION OF CONSTITUTIONAL OFFICERS

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The hour having arrived, set by Senate Joint Resolution No. 9, the House and Senate met in Joint Convention for the purpose of the election of the Constitutional Officers.

Mr. President Ramsey called the Joint Convention to order pursuant to Senate Joint Resolution No. 9.

Senator Norris moved to dispense with the Senate Roll Call, which motion prevailed.

Representative McCormick moved to dispense with the House Roll Call, which motion prevailed.

The Clerk of the Senate read Senate Joint Resolution No. 9 authorizing the Joint Convention.

Mr. President Ramsey declared the next order of business was to adopt the Report of the Select Committee to Review the Audits and Operations of the Comptroller of the Treasury and the Department of the Treasury, pursuant to Tennessee Code Annotated, Sections 8-4-102 and 8-5-102:

REPORT OF THE SELECT COMMITTEE TO REVIEW THE AUDITS AND OPERATIONS OF THE COMPTROLLER OF THE TREASURY AND THE DEPARTMENT OF TREASURY

On January 11, 2011 the select committee appointed by the Speaker of the Senate and Speaker of the House of Representative, pursuant to Tennessee Code Annotated, Sections 8-4-102 and 8-5-102, to review the audits and operations of the Comptroller of the Treasury and the Department of the Treasury met in Room 29 of the Legislative Plaza. The select committee was composed of Senator Mark Norris and Representative Gerald McCormick, who served as co-chairs, Senator Randy McNally, Senator Jim Kyle, Representative Charles Sargent and Representative Craig Fitzhugh. A quorum was present, Mr. Art Hayes, Director, Division of Stat Audit Office of the Comptroller of the Treasury, presented the following information to the committee:

1. An audit report of the Comptroller of the Treasury for the fiscal year ended June 30, 2010.
2. An audit report of the Department of treasury for the fiscal year ended June 30, 2009.
3. A report entitled "State of Tennessee Comptroller of the Treasury Department of Audit External Peer Review for the period 7/1/2009 through 6/30/2010" conducted under the direction of the National State Auditors Association.

Representative McCormick moved that the committee accept the audits of the Comptroller of the Treasury and the Department of the Treaury as being properly conducted and in compliance with all laws and to report such action to the Senate and House of Representatives. Representative Sargent seconded the motion. The motion carried unanimously.

There being no further business, the committee adjourned, sine die.

/s/ Senator Mark Norris
/s/ Senator Randy McNally

/s/ Representative Gerald McCormick
/s/ Representative Charles Sargent

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/s/ Senator Jim Kyle

/s/ Representative Craig Fitzhugh

Senator McNally moved, pursuant to Tennessee Code Annotate Sections 8-4-102 and 8-5-102, that the Joint Convention adopt the report of the Select Committee to Review the Audits and Operations of the Comptroller of the Treasury and the Department of the Treasury.

Representative McCormick seconded the nomination, which motion prevailed.

Mr. President Ramsey declared the next order of business was the adoption of the Report of the Joint Committee to Canvass the Returns of the 2010 General Election for Governor, pursuant to Senate Joint Resolution No. 10.

**REPORT OF THE COMMITTEE TO CERTIFY RESULTS
OF GOVERNOR'S ELECTION**

The joint committee appointed to canvass and certify the results of the November 2, 2010, general election for the office of governor of the State of Tennessee has met and reports the following results:

Bill Haslam	1,041,545
Mike McWherter	529,851
Bayron Binkley	4,663
Brandon Dodds	4,728
Samuel David Duck	1,755
David Gatchell	859
June Griffin	2,587
Toni K. Hall	993
Mike Knois	600
Boyce T. McCall	828
Donald Ray McFolin	583
Linda Kay Perry	2,057
James Reesor	809
Thomas Smith II	1,207
Howard M. Switzer	1,887
Carl Twofeathers Whitaker	6,536
James Lee (write-in)	3
Basil Marceaux (write-in)	58
Gary Nugent (write-in)	0

Submitted by:

/s/ Senator Mark Norris

/s/ Senator Randy McNally

/s/ Senator Jim Kyle

/s/ Representative Judd Matheny

/s/ Representative Gerald McCormick

/s/ Representative Craig Fitzhugh

Speaker Pro Tempore Matheny moved, pursuant to Senate Joint Resolution No. 10, that the Report of the Select Committee to Canvass the Returns of the 2010 General Election for Governor be adopted, which motion prevailed.

ELECTION OF COMPTROLLER OF THE TREASURY

Mr. President Ramsey declared the next order of business was the election of the Comptroller of the Treasury and that nominations were in order.

Representative McCormick nominated Mr. Justin P. Wilson of Davidson County.

Senator Ketron seconded the nomination of Mr. Wilson.

Senator Woods moved that nominations cease and for Mr. Justin P. Wilson be elected by acclamation. The motion prevailed.

Thereupon, President Ramsey declared Mr. Wilson duly, legally and constitutionally elected Comptroller of the Treasury for the ensuing two years.

President Ramsey appointed the following committee to escort Mr. Wilson to the Well of the House: Senators Henry, Johnson and Tracy; Representatives Sargent, Gotto and McDaniel. Representative Steve McDaniel served as Chair of the Committee.

OATH OF OFFICE

The Oath of Office was administered to Mr. Wilson by the Honorable William C. Koch, Jr., Justice of the Tennessee Supreme Court.

Mr. Wilson expressed his appreciation to the General Assembly.

ELECTION OF STATE TREASURER

President Ramsey declared the next order of business was the election of the State Treasurer and that nominations were in order.

Senator Norris nominated Mr. David H. Lillard Jr. of Shelby County.

Representative Maggart seconded the nomination of Mr. Lillard.

Representative Sargent moved that nominations cease and for Mr. David H. Lillard Jr. be elected by acclamation. The motion prevailed.

Thereupon, President Ramsey declared Mr. David H. Lillard duly, legally and constitutionally elected State Treasurer for the ensuing two years.

President Ramsey appointed the following committee to escort Mr. Lillard to the Well of the House: Senators Kelsey, Ketron and Norris; Representatives K. Brooks, Matheny and Todd. Senator Norris served as Chair of the Committee.

OATH OF OFFICE

The Oath of Office was administered to Mr. Lillard by the Honorable William C. Koch, Jr., Justice of the Tennessee Supreme Court.

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VERSION**

Mr. Lillard expressed his appreciation to the General Assembly.

Mr. President Ramsey relinquished the gavel to Madam Speaker Harwell as President Pro Tempore of the Joint Convention.

Thereupon, the purpose for which the Joint Convention was called having been accomplished, Madam President Pro Tempore Harwell declared the Joint Convention dissolved.